

7-17-08

FILED

IN THE UNITED STATES DISTRICT
COURT For the Northern District
OF Illinois
EASTERN Division

JUL 8 8 2008

7-23-2008

MICHAEL W. DOBBINS

CLERK, U.S. DISTRICT COURT

BONKS VS ABraham, Superintendent of
Elgin mental Health center

Civil no: 08 cv 2468

NOTICE OF FILING

PLEASE TAKE NOTICE PETITIONER HAS
CAUSE TO BE FILED BY THE COURT THE
AUTHORITIES TO THE RULE 60(b) MOTION.
PETITIONER CAUSE SUCH TO BE SENT 7-17-08
FROM GERMER DRIVE P.O. BOX 51 CHESTER,
IL 62233

CERTIFICATE SERVICE

PLEASE TAKE NOTICE PETITIONER HAS
CAUSE TO BE FILED BY THE COURT THE
AUTHORITIES TO THE RULE 60(b) MOTION.
PETITIONER HAS ONLY ONE COPY, BECAUSE
OF THE FACILITY WANT ASSIST.

Respectfully Submitted
Lynn, n. R.

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JUL 23 2008

7-23-2008

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURTIN THE UNITED STATES DISTRICT
COURT For the Northern District
OF ILLINOIS
EASTERN DivisionBanks vs Abraham, Superintendent of
Elgin Mental Health Center.

Civil No: 08cv2468

Supplemental Exhibits to BE
ATTACHED TO, THE MOTION pursuant to
Fed Rules of civil Procedure, Rule 60(b)NOW COMES THE PETITIONER IN WANT
OF counsel, AND Submit the Supplemental
Exhibits to BE ATTACHED TO, THE MOTION
pursuant to Fed Rules of civil procedure
Rule 60(b).DUE TO THE facility lacking a constitution
al law library the Petitioner is
unable to get a law. outside the
facility, But it takes 1 month, due to
the individual(s) sending it is not an
ATTORNEY.RESPECTFULLY SUBMITTER
y m. R

7-17-08

("A claim has been Fairly presented when a petitioner has properly raised the 'Same Factual grounds and legal theories' in the state courts which he is attempting to raise in his federal habeas petition"),
 Cert. denied, 518 U.S. 1029, 116 S. Ct. 2574,
 135 L.Ed.2d 1090 (1996)

To Satisfy the EXhaustion Requirement
 a Habeas petitioner must fairly present
 his claim to the state's highest court.
 See: SPENCER VS Murray, 18 F.3d 237, 239
 (4th Cir. 1994)

MANNING VS ALEXANDER, 915 F.2d 879,
 881 (6th Cir. 1990); The burden of proving
 that a claim has been exhausted lies
 with the petitioner.

The Exhaustion Requirement through not
 Jurisdictional, Granberry VS Greer, 481 U.S.
 129, 131, 107 S.Ct. 1671, 1673-74, 95 L.Ed.2d
 119 (1987), is strictly enforce, Rose, 455 U.S.
 at 522, 102 S.Ct. at 1205, However, the
 exhaustion requirement for claims not
 fairly presented to the state's highest
 court is technically met when exhaustion
 is unconditionally waived by the state,

Sweezy vs Garrison, 694 F.2d 831, 331 (4th cir. 1982) (per curiam), cert. denied, 461 U.S. 908, 103 S.Ct. 1882, 76 L.Ed.2d 812 (1983)

At least one circuit has held that a claim not raised on direct appeal can be exhausted for federal habeas corpus purposes if the claim falls within a class of claims for which the State Supreme court was statutorily required to review. See: Beam vs Paskett, 3 F.3d 1301, 1306-07 (9th cir. 1993), cert. denied, 511 U.S. 1060, 114 S.Ct. 1631, 128 L.Ed.2d 354 (1994)

Kornahrens, 92 F.3d at 1345 n.6 (4th cir. 1995)

Care vs State, 277 S.C. 474, 289 S.E.2d, 413-14 (1982); (Court permitted a successive application where the Applicant's first PCR application was filed without the benefit of counsel and was dismissed without a hearing.)

Fundamental miscarriage of Justice
Coleman, 501 U.S. at 750, 111 S.Ct. at 2565

The fundamental miscarriage of justice" exception is available to those who are actually innocent, *Murray vs Carrier*, 477 U.S. 478, 495-96, 106 S.Ct 2639, 2649-50, 91 L.Ed.2d 897 (1986); one must show that the prosecutor is trying a individual without evidence.

Batson vs Kentucky, 476 U.S. 79, 91, (1986) *Swain vs Alabama*, 380 U.S. 202, 224, 85 Violation of Equal protection, due to the prosecutor, and Public Defender Waive my Right to have Blacks on the Jury. June 25 2007, show a prima facie case of discrimination, *Hernandez vs New York*, 500 U.S. 352, 368 (1991), The Burden of proof shifts to the prosecutor once the Appellant shows a "prima facie" case of discrimination. (Face neutral).

Although counsel has the obligation to conduct a reasonable investigation even if the defendant is reluctant to cooperate, *Blanco vs Singleton*, 943 F.2d 1477, 1503 (11th Cir. 1991) cert. denied, 504 U.S. 943, 946, 112 S.Ct 2282, 2290, 119 L.Ed.2d 207, 213 (1992); SEE: EXculpatory Evidence.

IN THE INTEREST OF GIVING state courts the first opportunity to consider alleged constitutional ERRORS occurring in a defendant's state trial and sentencing, a § 2254 petitioner is required to "Exhaust" all state court Remedies before a federal district court can entertain his claims. 28 U.S.C. § 2254 (b) & (c); see: Also ROSE VS GUNDY, 455 U.S. 509, 818, 102 S.Ct. 1198, 1203, 71 L.ed.2d 379 (1982)

Thus a federal habeas court may consider only those issue(s) which have been "fairly presented" to the state courts. PICARD VS CONNER, 404 U.S. 270, TOWNES VS MURRY, 68 F.3d 840, 846 (4th Cir. 1995)

761 28 U.S.C. § 2243 requires a Circuit court power to bring a petitioner before the court, and discharge him after hearing the testimony, which such constitutional Right, statutory law was broken, the court has the right to discharge the petitioner.

§ 753 28 U.S.C. § 2243, Treaty of the United States